

REMARKS

Claims 1-13 are currently pending in the Application. Claims 1, 4, 7, and 12 have been amended. The original Figures have been replaced via the Replacement Sheets 1-3, and the Abstract has been amended.

In the Drawings

The Examiner has required new drawings in compliance with 37 CFR 1.121(d). In response, Applicant respectfully submits Replacement Sheets 1-3.

Objections

The Examiner has objected to the Abstract for including legal phraseology. In response, Applicant has respectfully amended the Abstract to address this issue.

The Examiner has also objected to claims 7 and 12 for informalities. In response, Applicant has respectfully amended claims 7 and 12 to address these informalities.

Claim Rejections Under 35 U.S.C. §112, second paragraph

Claim 12 has been rejected under 35 U.S.C. §112, second paragraph for being indefinite. In response, Applicant has amended the preamble of claim 1 to recite a “roof membrane,” and has amended claim 12 to recite “the roof membrane in an area...”

Claim Rejections Under 35 U.S.C. §102(b)

Claims 1-6 and 8-13 have been rejected under 35 U.S.C. §102(b) as being anticipated by et al. U.S. Patent No. 6,502,360 to Carr (hereinafter referred to as “Carr”). Applicant respectfully traverse.

Applicant’s amended claim 1 recites *inter alia*:

“positioning an energy absorbing material to discretely cover each individual fastener of said fasteners,” and

Applicant's amended claim 4 recites *inter alia*:

"a dedicated energy absorbing material positioned to discretely cover each individual fastener of said at least one fasteners."

Applicant respectfully asserts that Carr does not teach an energy absorbing *discretely* positioned over each of said at least one fasteners. Instead, referring to Figure 1 in particular, Carr teaches an energy absorbing layer 20 that covers multiple fasteners 16. As such, the energy absorbing material 20 of Carr is not taught to be discretely or separately positioned over each individual fastener. Thus, Carr does not teach every element of Applicant's claims 1 and 4.

Accordingly, for at least the reasons set forth hereinabove, Applicant respectfully submits that amended claims 1 and 4, and claims 2-3, 5-6, and 8-12 that depend variously therefrom, are not anticipated by Carr.

Referring now to claim 13, there is respectfully recited *inter alia*:

"a roof waterproofing membrane positioned over said at least one fastener; and a dedicated energy absorbing material positioned atop all foregoing elements."

Carr does not teach an energy absorbing material disposed atop a waterproofing membrane. Instead, referring particularly to Figure 1, Carr teaches a water proofing membrane 22 disposed on top of all other roofing elements, including the energy absorbing material 20. As such, the energy absorbing material 20 of Carr is not taught to be positioned atop all forgoing elements. Thus, Carr does not teach every element of Applicant's claim 13.

Accordingly, for at least the reasons set forth hereinabove, Applicant respectfully submits Carr does not anticipate claim 13.

Claim Rejections Under 35 U.S.C. §103(a)

Claim 7 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Carr. Applicant respectfully traverses.

Claim 7 depends from amended claim 4. Thus, for at least the reasons set forth in the 102 section above, the elements of claim 7 are not taught or suggested by Carr. As such, Applicant respectfully submits that claim 7 is not obvious over Carr.

All of the rejections are herein overcome. No new matter is added by way of the present Remarks, as support is found throughout the original filed specification, claims, and drawings. Notice of Allowance is respectfully requested.

If the Examiner has any questions regarding the instantly submitted response, Applicant's attorney respectfully requests the courtesy of a telephone conference to discuss any matters in need of attention.

If there are any additional charges with respect to this response or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorney.

Respectfully submitted,

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